

9.108-4

9.108-4 Waiver.

Any agency head may waive the prohibition in subsection 9.108-2 and the requirement of subsection 9.108-3 for a specific contract if the agency head determines in writing that the waiver is required in the interest of national security, documents the determination, and reports it to the Congress.

[76 FR 31413, May 31, 2011]

9.108-5 Solicitation provision and contract clause.

The contracting officer shall—

(a) Include the provision at 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation, in each solicitation for the acquisition of products or services (including construction); and

(b) Include the clause at 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations, in each solicitation and contract for the acquisition of products or services (including construction).

[76 FR 31413, May 31, 2011, as amended at 77 FR 27548, May 10, 2012; 79 FR 74556, Dec. 15, 2014]

Subpart 9.2—Qualifications Requirements

SOURCE: 50 FR 35476, Aug. 30, 1985, unless otherwise noted.

9.200 Scope of subpart.

This subpart implements 10 U.S.C. 2319 and 41 U.S.C. 3311 and prescribes policies and procedures regarding qualification requirements and the acquisitions that are subject to such requirements.

[79 FR 24199, Apr. 29, 2014]

9.201 Definitions.

As used in this subpart—

Qualified bidders list (QBL) means a list of bidders who have had their products examined and tested and who have satisfied all applicable qualification requirements for that product or have otherwise satisfied all applicable qualification requirements.

Qualified manufacturers list (QML) means a list of manufacturers who have had their products examined and

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tested and who have satisfied all applicable qualification requirements for that product.

[50 FR 35476, Aug. 30, 1985, as amended at 53 FR 34227, Sept. 2, 1988; 66 FR 2128, Jan. 10, 2001]

9.202 Policy.

(a)(1) The head of the agency or designee shall, before establishing a qualification requirement, prepare a written justification—

(i) Stating the necessity for establishing the qualification requirement and specifying why the qualification requirement must be demonstrated before contract award;

(ii) Estimating the likely costs for testing and evaluation which will be incurred by the potential offeror to become qualified; and

(iii) Specifying all requirements that a potential offeror (or its product) must satisfy in order to become qualified. Only those requirements which are the least restrictive to meet the purposes necessitating the establishment of the qualification requirements shall be specified.

(2) Upon request to the contracting activity, potential offerors shall be provided—

(i) All requirements that they or their products must satisfy to become qualified;

(ii) At their expense (but see 9.204(a)(2) with regard to small businesses), a prompt opportunity to demonstrate their abilities to meet the standards specified for qualification using qualified personnel and facilities of the agency concerned, or of another agency obtained through interagency agreements, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency).

(3) If the services in (a)(2)(ii) above are provided by contract, the contractors selected to provide testing and evaluation services shall be—

(i) Those that are not expected to benefit from an absence of additional qualified sources; and

(ii) Required by their contracts to adhere to any restriction on technical data asserted by the potential offeror seeking qualification.